Revenue. (1949) Department.

SERIES.

G.O. No. 17

Dated 25. 1. 49

[Despatch Abstract.]

Madras - Sale of Abkari privileges - Condition IX(a) - Letter from the Board of Revenue - Recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
MS	1407	Rev	7.6.47.				
Mewad	1985						

Further Papers.

G.O.	No.	Department	Date	G.O.	No.	Department.	Date.

GOVERNMENT OF MADRAS.
Revenue Department.

Memorandum No. 61253/D/48-1 dated 26.11.1948.

Sub:- Excise - Sale of Abkari privileges - Condition IX(a) - Modification.

Till the decision of the High Court in 60 Law Weekly, page 110 (Somasundaram Pillai Versus The Provincial Government of Madras) was pronounced, the Government have been proceeding on the view that an offer made at an abkari auction could not be withdrawn pending its acceptance or rejection by the Collector. In that decision, however, it has been laid down that a bid at auction provisionally accepted by the selling officer subject to confirmation by the Collector cannot be enforced where the bidder withdraws it before acceptance by the Collector. The decision has thus effected a material change in the law as it was assumed to be. Condition IX(a) of the conditions of the notice of sale of Abkari privileges provides that the order of the Collector confirming a bid provisionally accepted by the selling officer shall be final unless it is revised by the Board of Revenue for special reasons. Following up the decision of the High Court logically, it will be possible to contend that even if the bid is confirmed by the Collector, the acceptance continues to be provisional and the offer may be withdrawn by the bidder at any time before the Board exercises its power under condition IX(a) and confirms the bid. This view might lead to very serious consequences since if the bidder can revoke his bid within the time specified above, there will be no concluded contract at all and it will become extremely difficult to collect arrears of kist from the renters unless in every case the Board too passed an order confirming the sale. The Government consider that this clause and its analogous counterparts elsewhere should be suitably modified so as to bring out the idea that the contract would be final but that it might be cancelled by the Board (or other authority) for special reasons within a specified time after the confirmation of the bid by the local officer and that no claim for compensation of any kind on account of such cancellation will be admissible.

2. The Board of Revenue (Excise) is requested to examine the conditions applicable to all leases with which it is concerned and to propose the necessary amendments wherever necessary.

23.11.1948.

To

The Board of Revenue (Excise), Madras.

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GOVERNMENT OF MADRAS.
Revenue Department.

U.O. Note No. 61253/D/48-2 dated 26.11.1948.

Sub:- Excise - Sale of Abkari privileges - Condition IX(a) - Modification.

A copy of the extracts of the notes by the Legal Department together with a copy of condition IX(a) of the

Conditions of auction sale of Abkari privileges referred to therein may be communicated to the other Departments of the Secretariat for examining whether the conditions applicable to any lease with which they are concerned require modification.

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23.11.48.

The Departments of Secretariat except Legal, Home, Law Dev.

BOARD OF REVENUE (EXCISE) DEPARTMENT

Sub:- Excise - Sale of Abkari and Opium privileges - Condition IX - Modification.

Read:- Government Memorandum No. 61253/D/48-1, Revenue, dated 26.11.1948.

Station:- Madras. C.R.No. 41605/Abk. Dated 13.12.1948.

From

Sri. P. Rajagopalachari,
Assistant Secretary, Board of Revenue (Excise).

Sri. V.N. Kumra, I.C.S., C.I.E.,
Member, Board of Revenue and Commissioner of Land Revenue, Excise and Prohibition.

Reference:-

With reference to the Government Memorandum cited above, the Board invites the attention of the Government to its reference C.R. 27443/46 dated 8.3.1947 and to Government Memorandum No. 198/D/47-5, Revenue, dated 10.5.1947. As directed in para 2 of the Government Memorandum dated 10.5.1947 condition IX of the auction sale conditions was amended and the new condition was published in the Commissioner's sale notification No. 1 dated 10.2.1948, published as supplement to Part II of the Fort St. George Gazette, dated 10.2.48.

2. Prohibition is now in force throughout the Province except in the Agency tracts. The Board has submitted proposals to Government that the Abkari and Opium shops in the Agency tracts need not be reopened. In the circumstances, the Board does not consider it necessary to amend the conditions of Auction Sale at this stage.

(Sd)Rajagopalachari, 14.12.48
Assistant Secretary.

The Deputy Secretary to Government, Revenue Department, Fort St. George, Madras.

/True copy/

Office Assistant,
Madras Record Office.

REVENUE DEPARTMENT

The papers may be recorded as Government Order (Miscellaneous) for future reference.

x x x x
21.1.1949.

G.O. Ms. No. 173 dated 25.1.1949.

Excise - Sale of Abkari privileges - Condition IX(a) - Letter from the Board of Revenue - Recorded.

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Office Assistant,
Madras Record Office.

k.y.s.